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and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

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COMMITTEE AGAINST TORTURE

Sixteenth session

SUMMARY RECORD OF THE PUBLIC* PART OF THE 246th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 30 April 1996, at 3 p.m.

Chairman: Mr. DIPANDA MOUELLE

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.246/Add.1.

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (continued)

Initial report of Armenia (CAT/C/24/Add.4/Rev.1; HRI/CORE/1/Add.57)

1. At the invitation of the Chairman, Mr. Nazarian and Ms. Soudjian (Armenia) took places at the Committee table.

2. Mr. NAZARIAN (Armenia), replying to a question asked at the previous meeting, denied that an Armenian Minister had been attacked and beaten.

3. Ms. SOUDJIAN (Armenia) said that she would answer the other questions posed at the previous meeting. Although Armenian domestic legislation contained no definition of torture as such, the Constitution prohibited torture and any other cruel or degrading treatment or punishment. It also forbade submitting individuals to scientific experimentation without their consent.

4. Under the terms of the Penal Code, if the abuse of power was accompanied by violent or degrading treatment or the use of arms, it was punishable by imprisonment for a period of 3 to 10 years. Furthermore, any complaint lodged by a detained person must be communicated to the relevant authorities. Instructions from higher authorities could not be invoked as a justification for torture. No statistics existed concerning torture by persons in official positions.

5. If a discrepancy emerged between the provisions of domestic legislation and those of an international treaty to which Armenia was a party, the international treaty took precedence. Many of the terms of such international human rights instruments had, in fact, been incorporated in the Constitution; she was confident that more would eventually be written into law. In that connection, it should not be forgotten that Armenia was in the midst of a transition period. No cases had arisen in which an accused person had invoked the terms of an international convention before the Armenian courts. Under no circumstances was the Armenian President empowered to block the implementation of domestic legislation.

6. If a detainee died after torture, the charge was murder with aggravating circumstances. The Penal Code required judges to adhere to set limits on the duration of pre-trial detention and the term of imprisonment. The concern expressed regarding the length of police custody arose from a typographical error in the report: the period of police custody could be extended to 3 days, not 30. The Constitution clearly established the terms for an appeal against conviction.

7. The independent human rights and democracy centre established in October 1995 had undertaken a broad, vigorous information campaign. The functions of that centre included the distribution of pertinent information to lawyers, doctors, and others who dealt with detainees, and the preparation of educational and training programmes.

8. Every person had the right to legal defence from the time his or her detention began. Although no specific legislation regulated a detainee's access to a lawyer, the accused could in fact meet his counsel at any time. All persons had the right to legal assistance; under certain circumstances, such assistance being provided free of charge. Prisoners were also guaranteed the right to be treated by a doctor.

9. Although legislation on compensation and rehabilitation was still in the drafting stage, a law addressing the matter of compensation for the victims of political repression had already gone into effect. Under its terms, for example, persons illegally imprisoned during the repression of the 1930s were entitled to double ration vouchers. In addition, if an individual was imprisoned for a crime and later found to be innocent, he was entitled to financial compensation to an extent of not less than the official wage covering the period of his sentence. Armenia was also in the process of establishing a system of medical rehabilitation centres.

10. Her Government was unable to give a precise date for the completion of the draft penal code and the draft code of penal procedure. It was hoped that work on those instruments would be concluded within the next few months.

11. Concern had been expressed about the independence of the judiciary. The conduct of judges was not, in fact, monitored. Under the terms of the new Constitution, the President had extended the tenures of both local and regional judges by six months, and could, in certain cases, appoint judges for tenures of three years by special decision.

12. Armenia had ratified the international instruments relating to refugees, and relevant national legislation was in being. Her Government was working energetically to assist refugees, and in particular to find them work. UNHCR had of course been active in Armenia for a number of years.

13. No cases of expulsion of the kind described by one expert had occurred in Armenia, and no regulatory mechanisms therefore existed.

14. Recent legislation concerning religious organizations established the separation of church and State, forbade the State to oblige citizens to adopt a particular religion and permitted religious organizations to attain the status of legal persons. The Constitution provided that all citizens of Armenia, regardless of nationality, race, sex, language, social background, wealth, and religious or political views, enjoyed the rights, freedoms and obligations set forth therein.

15. Although legislation concerning the Constitutional Court had been passed in November 1995, the Court was not yet functioning. Complaints lodged by individuals were indeed assessed in the context of a breach of law, and corresponding offences duly prosecuted.

16. A question had been asked about the consolidation of the Office of the Government Procurator and the courts. The role of the Government Procurator

had been curtailed by 25 per cent, and the courts were responsible for issuing arrest warrants. The State security branch of the armed forces fell within the competence of the Government Procurator, and its members were accordingly subject to civil law.

The public meeting was suspended at 4.05 p.m. and resumed at 5.20 p.m.

17. Mr. SØRENSEN (Country Rapporteur) read out the conclusions and recommendations of the Committee on the initial report of Armenia.

"Conclusions and recommendations of the Committee against Torture

ARMENIA

The Committee considered the initial report of Armenia (CAT/C/24/Add.4/Rev.1) at its 245th and 246th meetings on 30 April 1996 (see CAT/C/SR.245 and 246) and adopted the following conclusions and recommendations.

A. Introduction

The Committee welcomes the report of Armenia, together with its core document, and the valuable oral introduction given by the delegation of Armenia.

B. Positive aspects

The Committee welcomes the integration of the prohibition against torture into the newly adopted Constitution. Similarly, it welcomes the creation of a Human Rights Commission and the new agreement between Armenia and the International Committee of the Red Cross (ICRC), which gives the latter the right to visit Armenian prisoners.

The Committee is encouraged by the information given to it about the trends in reforming the legal system, where it seems that consideration for human rights has a high priority.

C. Factors and difficulties impeding the application of the provisions of the Convention

The Committee realizes the very difficult economic situation existing in Armenia, together with the difficulties involved in any transition from one system of governance to one that is democratically based. The Committee also acknowledges the particular consequences of Armenia's unstable border situation.

The Committee has tried to take these matters into consideration in formulating its conclusions and recommendations. But the Committee emphasizes that these conditions can never provide a justification for failure to comply with the terms of the Convention.

D. Subjects of concern

It is of concern to the Committee that Armenia has not seen fit to create a specifically defined crime of torture. It is not clear that the provisions of article 2 of the Convention are adequately reflected in the domestic law of Armenia.

The Committee is concerned that it is not clear that the laws, regulations and practice in Armenia effectively prohibit a person from being sent back to a country where he or she runs the risk of being subjected to torture.

The Committee has doubts about the effectiveness of the provisions for the safeguarding of persons in police custody.

Finally, the Committee is concerned about the number of allegations it has received with regard to ill-treatment perpetrated by public authorities during and after arrest.

E. Recommendations

The Committee recommends that a definition of torture in conformity with the definition appearing in article 1 of the Convention be inserted into Armenian domestic legislation as a separate type of crime.

The Committee emphasizes that orders received from a superior implying the perpetration of an act of torture are illegal and should be sanctioned under criminal law. In addition, they cannot be considered by the person receiving such orders as justification for having committed torture. This should be clearly incorporated into domestic law.

The Committee recommends that legal and practical measures be taken by the Armenian authorities to guarantee that a person is not expelled, returned (refoulé) or extradited to another State where there are substantial grounds for believing that he will be in danger of being subjected to torture.

The Committee understands that the Government of Armenia is presently developing the jurisdiction of the Constitutional Court; the Committee recommends that the Government consider the possibility of establishing an effective and reliable judicial review of the constitutional rights of those who are illegally detained.

The Committee further recommends that the Armenian authorities give high priority to the training of the personnel enumerated in article 10 of the Convention.

The Committee recommends that the allegations of ill-treatment which were brought to its attention be duly investigated, and that the result of such investigations be transmitted to the Committee."

18. Mr. NAZARIAN (Armenia), having thanked the Committee for its efforts, said that all the comments made would be taken into account and the necessary changes made wherever possible.

19. The CHAIRMAN said that the Committee appreciated the Armenian delegation's frankness and spirit of cooperation. He hoped that the country's transition to democracy would take place under the best possible circumstances.

The meeting rose at 5.40 p.m.